

July 3, 2017

**Ex Parte**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123; *Structure and Practices of the Video Relay Service Program*, CG Docket No. 10-51

Dear Ms. Dortch:

On June 29, 2017, Scott Sorensen, CEO of Sorenson Communications, LLC (“Sorenson”), Scott Wood, General Counsel of Sorenson, Rebekah Goodheart, outside counsel to Sorenson, and I, outside counsel to Sorenson, met with Amy Bender, Legal Advisor to Commissioner Michael O’Rielly, regarding the *Order and Further Notice of Proposed Rulemaking* on Video Relay Services (“VRS”).<sup>1</sup> We reiterated concerns regarding the Commission’s proposal. There is no basis for: the fundamental assumption of the tiered system that, beyond a very low level, there are significant economies of scale for a service that requires a highly-skilled Video Interpreter to be on every call;<sup>2</sup> the divisions between the tiers;<sup>3</sup> the rate

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<sup>1</sup> *Structure and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report & Order, Notice of Inquiry, Further Notice of Proposed Rulemaking, FCC 17-26, 32 FCC Rcd. 2436 (2017) (“FNPRM”).

<sup>2</sup> Comments of Sorenson Communications, LLC, Regarding Section IV.A-B and F of the Further Notice of Proposed Rulemaking at 59-62, CG Docket Nos. 10-51 and 03-123 (filed Apr. 24, 2017) (“Sorenson Comments”) (citing *An Economic Analysis of VRS Policy Reform: Declaration of Michael L. Katz*, attached as Appendix A to Comments of Sorenson Communications, Inc., CG Docket Nos. 10-51 and 03-123 (filed Mar. 9, 2012)); *Reply Comments Regarding VRS Policy Reform: Declaration of Michael L. Katz*, attached as Appendix A to Reply Comments of Sorenson Communications, Inc., CG Docket Nos. 10-51 and 03-123 (filed Mar. 30, 2012); *Response to Additional Request for Comments on VRS Policy: Declaration of Michael L. Katz*, appended as Attachment A to Comments of Sorenson Communications, Inc., CG Docket Nos. 10-51 and 03-123 (filed Nov. 14, 2012); *Reply Comments on VRS Policy: Declaration of Michael L. Katz*, appended as Attachment A to Reply Comments of Sorenson Communications, Inc., CG Docket Nos. 10-51 and 03-123 (filed Nov. 29, 2012). These declarations are part of this ongoing ratemaking docket.

<sup>3</sup> Sorenson Comments at 52-56.

levels chosen for each tier;<sup>4</sup> or, if tiers are permitted, allowing ZVRS to “double dip” the tiers by collecting two buckets of favored Tier 1 and Tier II rates, even as it reaps merger integration savings from combining its two operating subsidiaries.<sup>5</sup> The Commission is considering adopting a system of four tiers of rates for four providers that can only have the purpose of ensuring that all four existing providers remain in business, notwithstanding the demonstrable relative inefficiency of three of the four providers, and to set economic conditions to migrate consumers from Sorenson to other providers. It appears the Commission may also be considering ignoring costs for intellectual property held by an affiliate, inexplicably inconsistent with the Commission’s rules for determining a rate-of-return ILEC’s revenue requirement.<sup>6</sup>

In addition, we reiterated concerns with the Tier I and Tier II rates proposed by the Other VRS Providers.<sup>7</sup> In particular, Sorenson understands that the circulated item includes a Tier 2 rate of \$3.97, and that such rate appears arbitrary and lacks a consistent and rational methodology.<sup>8</sup>

Sorenson also expressed concern that the Commission may be arbitrarily distorting the market by providing some providers with a higher incremental rate for added minutes, which can then support higher wages for additional interpreters, while cutting the incremental rate to another provider so that it has lower incremental revenues for those same minutes, and thus cannot pay a comparable amount to another interpreter to handle the same conversation minute. Section 225 does not authorize the Commission to use TRS compensation to distort the market in such a manner.

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<sup>4</sup> Sorenson Comments at 19-48; Reply Comments of Sorenson Communications, LLC, Regarding Section IV.A-B and F of the Further Notice of Proposed Rulemaking at 7-23, CG Docket Nos. 10-51 and 03-123 (filed May 4, 2017) (“Sorenson Reply Comments”); Letter from John T. Nakahata, Counsel to Sorenson Communications, LLC, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 03-123 and 10-51, at 3 & n.5 (filed June 28, 2017).

<sup>5</sup> Letter from John T. Nakahata, Counsel to Sorenson Communications, LLC, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 03-123 and 10-51, at 5 (filed May 17, 2017).

<sup>6</sup> See 47 C.F.R. §§ 32.27, 64.902 (telephone company affiliate transactions rule).

<sup>7</sup> See Letter of Paul Besozzi, Counsel for Purple Communications, Inc., to Marlene H. Dortch, Secretary, FCC, CG Dockets Nos. 10-51 & 03-123, at 9 (filed Jan. 31, 2017) (stating “the proposed Tier 1 rate of \$4.82 is the rate that was in place from January 1, 2016 to June 30, 2016” with no explanation as to why that period was relevant to an appropriate rate level, and stating “[t]he proposed Tier II rate is set at \$4.35,” with no further explanation of why that number would be an appropriate rate level).

<sup>8</sup> See Sorenson Reply Comments at 4.

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Finally, we noted that the Tier III rate is apparently the only rate that is proposed to fall, and that it would do so immediately. This type of flash-cut without the ability to plan is unduly harsh, and exacerbates the disruptiveness and harm to consumers that will follow if the FCC adopts the proposals under consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "John T. Nakahata", with a stylized, cursive script.

John T. Nakahata

*Counsel to Sorenson Communications, LLC*

cc: Amy Bender